

SITE: Pioneer Sand
 BREAK: 7.6
 OTHER: 1

CONSERVATION EASEMENT

JAN 31 6 02 AM '02

STATE OF FLORIDA

COUNTY OF ESCAMBIA

This instrument is entered by WALTER DUGGER and CELIA DUGGER, husband and wife (hereinafter referred to as the "Grantors"), in favor of the UNITED STATES OF AMERICA (hereinafter referred to as the "Grantee").

1. WHEREAS, the Grantors are the owners of certain real property (hereinafter referred to as the "Site") located in Escambia County, Florida, which is more fully described as follows:

7.6

Lots 6, 7, and 8 of Lot 3 Section 2, Township 2 South, Range 31 West according to survey of Stephen Lee dated July 3, 1909, said survey being recorded in deed book 64 at page 365 of the public records of Escambia County, Florida, and except the South 10 acres of Lots 6, 7, and 8 of Lot 3, Section 2, Township 2 South, Range 31 West, according to survey of Stephen Lee of July 3, 1909, and except the North 6-2/3 acres of Lot 6 of Lot 3, Section 2, Township 2 South, Range 31 West, according to survey of Stephen Lee of July 3, 1909, containing 14 acres, more or less, and to include a right of way into this property which is described as commencing at the Northwest corner of Lot 2 of Lot 3, Section 2 Township 2 South, Range 31 West, as recorded in Deed Book 64 at page 365 of the public records of Escambia County, Florida; thence East along the North line of said Lot 2, a distance of 541 feet to a point of beginning of the right of way hereinafter described, thence South along a fence a distance of 484 feet, thence East for 27 feet; thence South 161 feet to the Northwest corner of the tract above described; thence East for a distance of 15 feet along the North line of said tract; thence North for a distance of 176 feet; thence West for a distance of 27



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feet; thence North for a distance of 469 feet, thence West for a distance of 15 feet to the point of beginning, this being the right of way into said property.

2. WHEREAS, a Consent Decree has been entered in the case of United States of America vs. Reichhold Chemical, Inc., et al., Civil Action No. 88-30168WS, United States District Court, Northern District of Florida, Pensacola Division, (hereinafter "the Consent Decree"), for the implementation of the remedial design and remedial action (hereinafter the "RD/RA") at the Site pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., as amended (hereinafter "CERCLA");

3. WHEREAS, the Grantors have agreed to grant a conservation easement in favor of the Grantee on the Site on the terms set forth herein;

4. WHEREFORE, the Grantors hereby grant to the Grantee, and its assigns, a perpetual conservation easement on the Site. Such easement is granted pursuant to Section 104(j) of CERCLA and in accordance with the provisions of Section 704.06, Florida Statutes (1990). The restrictions and covenants of this easement constitute a perpetual servitude on the property and run with the property. The Grantee reserves the rights obtained through this easement for itself, and for the State of Florida upon such time as the Grantee assigns the easement to the State of Florida

subject to and in accordance with Section 104(j) of CERCLA. This easement is subordinate to the reservations set forth in paragraphs 6 and 7 below.

5. The purpose of this easement is to assure the integrity and maintenance of the remedial action activities implemented at the Site. The Grantors, and their respective successors and assigns, covenant with the Grantee and its assigns not to conduct any of the following activities at or on the Site:

a. Drilling, construction, disturbance other activities which would compromise the integrity of the cover, the fence, monitoring wells, gas vents, or any other component of the remedy, or the function of any operating, monitoring, or maintenance activity.

b. Construction of roads or excavation or drilling/placement of wells.

c. Construction or placement of residences, trailers, schools, businesses, churches, warehouses, storage facilities or any other structures whether temporary or permanent.

d. Use for crops, vegetation, planting, other agricultural or forestry uses, pasture or holding of domestic animals.

e. Storage or disposal of construction debris, solid waste, hazardous waste, garbage, used cars, used

trucks, used tires, used automobile parts, and other scrap or junk materials.

f. Alterations of stormwater drainage conditions on to, away from, or adjacent to the cover.

g. Activities which would increase erosion or the instability of the pit excavation side walls adjacent to the cover.

6. The Grantee reserves, on behalf of itself and its assigns, and their authorized representatives including contractors, the right to manage the Site, including but not limited to the following activities:

a. The right to ingress and egress to conduct monitoring and easement enforcement activities.

b. The right of access to the premises for the purpose of studying, sampling, testing, examining, or performing of certain design, engineering and construction work, and to undertake and complete scientific work and remedial actions as necessary or desirable to control, process, remove as necessary, treat and rectify the conditions at the premises which may be potentially dangerous to the public health or the environment.

c. Any other rights necessary to implement, control or maintain the integrity of the remedial action pursuant to sections 104 or 106 of CERCLA.

7. Notwithstanding any of the provisions of this Conservation Easement, the United States and the State of

Florida retain all of their access authorities and rights under CERCLA, the Resource Conservation and Recovery Act (RCRA), and any other applicable statute or regulations.

8. In accordance with Section 104(j)(2) of CERCLA, the United States will transfer this easement to the State of Florida upon completion of the remedial action. The Grantors or its assigns agree to provide the State of Florida with such title, boundary and baseline information as may be reasonably required prior to the transfer of the easement. As provided in Section 104(j)(3), the State of Florida shall not be liable under CERCLA as a result of acquiring this easement.

9. Without limiting any other rights granted pursuant to this easement, the Grantors hereby grant the United States access at all times to the Site for the purposes of assuring compliance with this easement and of conducting any activities authorized by the Consent Decree, or otherwise authorized by CERCLA, including, but not limited to, the activities set forth in Paragraph 6 above. Grantors acknowledge that in addition to the rights conveyed under this Conservation Easement, the State of Florida, pursuant to Section 704.06, Florida Statutes (1991), shall have the right to enter the Site in a reasonable manner and at all reasonable times to assure compliance with the terms of the easement.

10. This easement shall be binding upon the Grantors and upon their successors and assigns. The Grantors covenant to warrant and defend for the Grantee, or its assigns, the quiet and peaceable use and enjoyment of the Site against all claims and demands.

11. Grantors and their successors and assigns, agree to pay in perpetuity any real estate taxes or assessments levied by competent authorities on the Site.

12. The terms and conditions of this Conservation Easement may be enforced by the Grantee and its assigns by injunctive relief and other appropriate available remedies. Grantors consent that, upon the transfer of the easement to the State of Florida, venue for such enforcement actions shall lie exclusively in the Circuit Court, in and for Escambia County, Florida. In any enforcement action in which the Grantee or its assigns prevail, Grantee or its assigns shall be entitled to recover reasonable attorney's fees and costs in the trial and appellate courts and in addition to the cost of restoring the land to the condition existing at the time of execution of this Conservation Easement. Any forbearance on behalf of the Grantee to exercise its rights in the event of the failure of Grantors to comply with the provisions of this Conservation Easement shall not be deemed or construed to be a waiver of the Grantee's rights hereunder in the event of any subsequent failure of the Grantors to comply.

IN WITNESS WHEREOF, Grantors have caused the
present to be signed, sealed and delivered on this 16th
day of December, 1991.

Signed, sealed and
delivered in our presence
of

[Signature]
WITNESS

[Signature]
WITNESS

[Signature]
GRANTOR

[Signature]
GRANTOR

State of Florida

County of Escombria

ACKNOWLEDGEMENT

The foregoing instrument was acknowledge before me
this 16th day of December, 1991 by WALTER DUGGER and CELIA
DUGGER, his wife, who are personally known to me or who have
produced _____ as identification and who
did ~~(did not)~~ take an oath.

[Signature]
Notary Public

My Commission Expires: 3-4-95

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